

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION No. 1649 OF 2006

Nikunj Kirti Kanakia

Petitioner

Vs.

Union of India & Ors.

Respondents

Sri. S. N. Kantawala advocate i.b M/s.  
Khaitan & Co. for the petitioner.

Sri R. F. Lambay, advocate for the  
respondent Nos. 1 and 2.

Sri. P. S. Hingorani, APP for respondent  
No.3.

CORAM : Sri R.M.S. KHANDEPARKAR &  
Sri A. A. SAYED, JJ.

DATE : DECEMBER 17, 2007.

P.C.

. Though the petition is listed at Sr.  
No. 277, the matter was mentioned at 3 p.m.  
by the learned advocate appearing for the  
petitioner and submitted copy of order of  
detention under COFEPOSA Act, 1974, based on  
which the SAFEMA proceedings sought to be  
initiated, has itself been withdrawn and the  
SAFEMA proceedings do not survive and the  
petition is liable to be allowed in terms of

the reliefs asked for. He has placed on record xerox copies of the orders passed by the Hon'ble Apex Court in Writ Petition (Cri.) No. 145 of 2006, dated 24th September 2007 as well as order dated 24th August 2007, by which it is apparent that the challenge thrown by the petitioner to the detention order which was impugned under COFEPOSA Act was sought to be withdrawn as the respondent Govt. had revoked the order of detention under COFEPOSA Act. The learned APP appearing for the respondent has also confirmed that the order of detention of petitioner under COFEPOSA Act has been withdrawn and has fairly conceded that in view of the withdrawal of detention of petitioner, SAFEMA proceedings cannot survive. Indeed, the law on this point is very clear that once the detention under COFEPOSA Act is withdrawn, question of proceedings under SAFEMA Act does not arise at all. In this view of the matter, nothing further survives in the proceedings under SAFEMA Act as the detention of the petitioner has been revoked and thus, the SAFEMA proceedings are liable to be quashed. Accordingly, the petition is

allowed and rule is made absolute in terms of  
prayer Clause 11(a) of the petition. There  
has been no order as to costs.

Sd/-  
[ R.M.S. KHANDEPARKAR, J.]

Sd/-  
[ A. A. SAYED J.]